



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0223]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Groendyke Transport, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from Groendyke Transport, Inc.

(Groendyke) to allow the use of a pulsating brake lamp in addition to the steady burning brake lamps required by the Federal Motor Carrier Safety Regulations (FMCSR) in its fleet operations. The FMCSRs require all exterior lamps (both required lamps and any additional lamps) to be steady-burning, with the exception of turn signal lamps, hazard warning signal lamps, school bus warning lamps, amber warning lamps or flashing warning lamps on tow trucks and commercial motor vehicles (CMV) transporting oversized loads, and warning lamps on emergency and service vehicles authorized by State or local authorities. Groendyke believes that operating a pulsating brake lamp on the rear of its trailers on a fleet-wide basis would allow the company to operate its equipment more effectively, efficiently, and safely, and would maintain a level of safety that is equivalent to, or greater than, the level that it would achieve without the requested exemption.

DATES: Comments must be received on or before [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2018-0223 using any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.

- Fax: 1–202–493–2251.

- Mail: Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

- Hand Delivery: Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday-Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without

edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Public participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the “help” section of the <http://www.regulations.gov> Web site as well as the DOT’s <http://docketsinfo.dot.gov> Web site. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-0676, Luke.Loy@dot.gov, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant exemptions from the FMCSRs. Pursuant to the implementing regulations, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305).

The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

Groendyke's Application for Exemption

Groendyke applied for an exemption from the requirements of 49 CFR 393.25(e) which requires all exterior lamps (both required lamps and any additional lamps) to be steady-burning, with the exception of turn signal lamps, hazard warning signal lamps, school bus warning lamps, amber warning lamps or flashing warning lamps on tow trucks and CMVs transporting oversized loads, and warning lamps on emergency and service vehicles authorized by State or local authorities. Specifically, Groendyke is requesting the exemption to allow it to install pulsating brake lamps in addition to the steady-burning brake lamps required by the FMCSRs. A copy of the application is included in the docket referenced at the beginning of this notice.

Groendyke is a carrier of flammable fuel and liquid hazardous materials. Groendyke has a fleet of approximately 900 trucks and 1,440 trailers, and employs over

1,200 individuals, including approximately 900 drivers. In its application, Groendyke states “Groendyke assessed what it could do to prevent other drivers from rear ending Groendyke trailers, and determined that increasing visibility of Groendyke trailers would be an efficient means to prevent rear ending accidents. To do this, Groendyke searched for ways to cause its braking system to capture the attention of other drivers faster and more completely.”

In its application, Groendyke seeks an exemption to include an amber brake-activated pulsating lamp to the rear of its trailers. The pulsating brake lamp would be positioned in the upper center portion of the trailer. In support of its application, Groendyke contends that the addition of the pulsating brake lamp will improve safety, and states that (1) research shows that pulsating brake lamps in addition to steady burning red brake lamps improves visibility and prevents accidents, (2) its own experience has demonstrated that pulsating brake lamps in addition to steady burning red brake lamps has decreased the frequency of rear-end accidents involving its fleet, and (3) similar exemptions exist for other classes of vehicles.

Research. Groendyke cites several studies conducted by the National Highway Traffic Safety Administration, another agency in the U.S. Department of Transportation, on the issues of rear-end crashes, distracted driving, and braking signals. Groendyke states:

“Research indicates that there are ways to improve the attention-getting qualities of braking systems. Including a pulsating brake lamp on a lead vehicle has quantifiable effect on the drivers of following vehicles and measurably reduces rear-end collisions. Drivers are redirected and altered faster and more efficiently when a pulsating brake lamp draws their attention to the lead vehicle. As a result, rear-end collisions, can be prevented or at least reduced.

Groendyke Experience. Beginning in the second quarter of 2015, Groendyke began installing pulsating brake lamps on some of its fleet without authorization from FMCSA to compare the frequency of rear-end collisions between (1) trailers equipped with pulsating brake lamps and the required steady-burning lamps and (2) trailers equipped with only the steady-burning lamps required by the FMCSRs. As of July 31, 2017, Groendyke had outfitted 632 of its 1,440 trailers with pulsating brake lamps.

Data gathered by Groendyke between January 2015 and July 2017 show that the pulsating brake lamps decreased the frequency of rear-end collisions by 33.7 percent.

Groendyke also analyzed its data to determine whether the pulsating brake lamps improved outcomes when drivers were slowing or stopping at railroad crossings.¹

Groendyke found that trailers equipped with the pulsating brake lamps were not involved in a rear-end crash at a railroad crossing during the same time period. Groendyke states:

The results of the Groendyke Brake Warning Device Campaign are clear: The frequency of rear-end collisions is markedly lower when trailers are outfitted with pulsating brake lamps in addition to the steady-burning lamps required by the FMCSRs. The pulsating brake lamps draw other drivers' attention to what is happening with the vehicle in front more effectively and more quickly than steady burning lamps. In the interest of safety and productivity, Groendyke desires to implement the Groendyke Brake Warning Device Campaign on the rest of its fleet without risking violation of the FMCSRs.

Exemptions for Other Classes of Vehicles. In its application, Groendyke notes that the current requirements of 49 CFR 393.25(e) specifically exclude tow trucks and CMVs from the requirements that all exterior lamps be steady-burning. Groendyke

¹ As cargo tank operators hauling hazardous materials, Groendyke drivers are required to stop or slow significantly at railroad crossings (49 CFR 392.10-392.12). Groendyke notes that railroad crossings are a significant source of rear-end collisions at Groendyke and elsewhere because non-commercial drivers may not anticipate stops at railroad crossings.

contends that “Allowing an exemption for drivers of hazardous loads would be consistent with the intent of the regulation.”

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Groendyke’s application for an exemption from the requirements of 49 CFR 393.25(e). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the “Addresses” section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: July 17, 2018.

Larry W. Minor,
Associate Administrator for Policy.

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